IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 12222 and 12965 of 2004

Between:

B. Narasimha Reddy, s/o Late Ranga Reddy,
R/o Plot No. 217, HMT ECHS, L.B. Nagar, Shapur Nagar, Hyderabad.

..... PETITIONER

AND

1 The Deputy Commissioner, Endowments Department, Hyderabad.
2 The Assistant Commissioner, Endowments Department, Hyderabad.
3 The Executive Officer - Person in Management, Sri Seetharama Swamy

Temple, Deveryamjal Village, Shameerpet Mandal, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction (s) essentially in the nature of Writ of mandamus declaring the action of the Respondents more particularly the Respondent No.1 herein in passing the Impugned Orders in O.A.No. 93 of 1999 (Order No. 29), dated 27-1-2004 as bad, illegal, arbitrary and unconstitutional and set aside the same as bad, illegal and unconstitutional.

Counsel for the Petitioner:MR.K.ASHOK REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR ENDOWMENTS

-

-

-

-

-

WRIT PETITION NO : 12965 of 2004

Between:

Sri B. Gopa Reddy, S/o. Late Ranga Reddy, R/o. H.No. 8-5-132/B/1, Durganagar, Myladevpalli, Keshavgir Post, Rajendernagar Revenue Mandal, Ranga Reddy District.

..... PETITIONER

AND

1 The Deputy Commissioner Endowments Department, Hyderabad.
2 The Asst. Commissioner, Endowments Department, Hyderabad.
3 The Executive Officer, Person in Management, Sri Seetharama Swamy

Temple, Deveryamjal Village, Shameerpet Mandal, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus, declaring the action of the first respondent in passing impugned order in O.A.No. 93 of 1999 (Order No. 29), dated 27-01-2004 as bad, arbitrary, illegal and pass

Counsel for the Petitioner:MR.K.ASHOK REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR ENDOWMENTS

This Court made the following:

-

-

-

-

COMMON ORDER:-

Since both the writ petitions involve common questions, they are taken up together for disposal. Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments appearing on behalf of the respondents.

Petitioners in both the writ petitions seeks to assail the impugned order passed under Section 83 of the A.P.Charitable & Religious Institutions Act, 1987 ordering their eviction treating them as encroachers.

The main grievance of the petitioners in both the writ petitions, apart from the merits, as sought to be urged, is that they did not receive any notice nor any opportunity was given to them before passing the impugned order. There cannot be any dispute that the procedure contemplated under Section 83 of the Act is that notice and opportunity is to be given before passing any order. Admittedly, in this case, it is evidence from the order impugned that no notice is sent to the petitioners and was not served and therefore, the respondents had taken the recourse of substitute of service of notice, which was published in the news paper. Therefore, there is no service of notice on the petitioner in both the matters nor it is the case of the respondent that the petitioners appeared and substantitiated their case. Having regard to the same, it is not necessary to go into the merits of the case. Suffice to direct the respondents to pass orders afresh after giving notice and opportunity to the petitioner.

Accordingly, both the writ petitions are allowed and the impugned orders are set aside. The respondents are directed to pass orders afresh, after giving notice and opportunity to the petitioner, in accordance with law on merits and after considering all the objections raised by the petitioner. No costs.

10—09—2004.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Friday, the tenth day of September Two thousand and four

REGISTRAR

To

1 The Deputy Commissioner, Endowments Department, Hyderabad.
2 The Assistant Commissioner, Endowments Department, Hyderabad.
3 The Executive Officer - Person in Management, Sri Seetharama Swamy

Temple, Deveryamjal Village, Shameerpet Mandal, Ranga Reddy District.

4. Two CCs to the Government Pleader for Endowments, High Court Building, Hyderabad. (OUT).

5. Two C.D. copies.

Stv/-